IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.2482 of 2005

Date of Decision: 2.11.2006

Jagdish ...Petitioner

Vs.

Chhotu Ram & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr. Pavan Malik, Advocate,
for the petitioner.

Mr.D.N.Ganeriwala, Advocate,
for respondents 1,2 and 4.

Vinod K.Sharma, J. (Oral)

By way of present revision petition challenge is to the order dated 28.4.2000 whereby defendants No. 2 to 5 have been ordered to be proceeded against ex parte and order dated 14.3.2005 passed by the the learned Civil Judge, (Junior Division), Dabwali vide which the application moved by the petitioner for setting aside ex parte proceedings has been dismissed.

The case of the petitioner was that he had not received summons nor he refused to take the delivery of summons. It was also claimed that summons were not affixed at his residence. The petitioner had

claimed that in fact, he had shifted to Rajasthan on account of registration of a false FIR under Section 302 of the Indian Penal Code in which he was lodged in the Police Station Sadar Dabwali. The petitioner claimed that he came to know about the proceedings on 10.3.2005 and thereafter immediately filed the application.

The learned Trial Court on the ground that the petitioner has failed to show the source of knowledge has rejected the application. It has further been noticed that the allegation in the application was only qua one Chowkidar and not against both the Chowkidars or against the Process Server and therefore, the assertions were not believed.

The procedural laws are made for advancement of justice and not to subvert the same. Therefore, once the application was moved by the petitioner within a period of limitation from the date of knowledge the same could not be rejected by the learned Trial Court in a summary manner.

In view of this, this revision is allowed. The impugned order is set aside and the application filed by the petitioner for setting aside the ex parte order is allowed. However, this shall be subject to payment of Rs.5000/- as costs.

(Vinod K.Sharma)
Judge

2.11.2006
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